IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 7451 of 2004

and

WRIT PETITION NO.11210 OF 2004

W.P.NO.7451 OF 2004:

Between:

The HMT Contract Labour's Employees Union, Regd. No. 760, HMT. Town ship, Hyderabad-54
Rept. By General Secretary S. Chandraiah

..... PETITIONER

AND

1 Hindustan Machine Tools Limited., Banglore, rept By Chairman-cum-Managing Director
2 Hindustan Machine Tools Limited., (Machine Tools Division) Balanagar, Hyderbad-54
rep by General Manager
3 Asst. General Manager, HIndustan Machine Tools Limited., Balanagar, Hyderabad-54
4 P. Umakanth, Contractor, H. NO. 20-39, Gandhinagar, HMT Town Ship, Hyderabad

5 S. Yadaiah, Contractor, H. No. 5-13-205, Gajularamaram, Hyderabad-500 055

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ or direction particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not regularizing the services of employees as shown in the table in para (3) as illegal, unjust in violation of Art, 14, 16 & 21 of the Constitution of India and consequently direct the Officials respondents to regularize the services of employees as shown in the table in para (3)from the date on which they have completed (3) years of service from the date of initial joining along with all consequential benefits in the interest of justice.

WRIT PETITION NO.11210 OF 2004:

Between:

The H.M.T.Contract Labor's Employees Union, Regd.No.760, H.M.T.Town Ship, Hyderabad-54,
rept., by its General Secretary S.Chandraiah.

..... PETITIONER

AND

1 Hindustan machine Tools Limited, Bangalore, rept., by its Chairman-cum-Managing Director.
2 Hindustan Machine tools Limited, (Machine Tools Division), Balanagar, Hyderabad-54, rept., by its General Manager
3 Asst.General Manager, Hindustan Machine tools Limited, Balanagar, Hyderabad-54.
4 Sri Balaji Industries, 2-39/A, Pipeline Road, Fathenagar, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of writ of mandamus declaring the action of the respondents in not regularizing the services of employees as shown in para (3) of this affidavit as illegal, unjust, in violation of Arts.14, 16 & 21 of the Constitution of India and consequently direct the official respondents to regularize the services of employees as shown in the Table in para (3) of this affidavit from the date on which they have completed (3) years of service

from the date of initial joining alongwith all consequential benefits

Counsel for the Petitioner in W.P.No.7451 of 2004 and W.P.No.11210 of 2004: MR.V.NARASIMHA GOUD

Counsel for the Respondent NO. in W.P.No.7451 of 2001: MR.P.NAGESWAR SREE

Counsel for Respondent No. in W.P.11210 of 2004:DR.P.B.VIJYA KUMAR

The Court made the following :

COMMON ORDER:

These two writ petitions are filed by H.M.T.Contract Labour's Employees Union, registered No.760, H.M.T. Town Ship, Hyderabad, represented by its General Secretary. The prayer in both the writ petitions is one and the same. The W.P.No.7851 of 2004 is filed on 19-4-2004 to issue a writ of mandamus declaring the action of the respondents in not regularizing the services of members of the petitioner union as illegal and unjust and violative of Article 14,16, and 21 of the Constitution of India and direct the official respondents to regularize their services. The W.P.No.11210 of 2004 is filed on 2-7-2004 for the same relief.

It is stated that in the annexure filed by the petitioner union in W.P.No.7451of 2004, all the members of the petitioner union were not shown and therefore, the petitioner union has filed the second writ petition in W.P.11210 of 2004 covering the other employees. Admittedly this court cannot adjudicate the said issue. As regards the regularization of the service of the petitioner as the petitioner union members are working as contract labourers, it is stated that the representations have been filed before the official respondents for absorption of the contract labourers in the company's permanent rolls, but the said representations have not been considered. If that be so, the petitioner union always raise a dispute and if such a dispute raises, it is for the Conciliation Officer to enter conciliation proceedings and take steps for

arrival of the settlement and if he fails to arrive a settlement, it is for him to send a report to the appropriate Government and it is for the appropriate Government to refer the dispute to the Labour Court or Industrial Tribunal as the case may be. This Court in similar facts and issues, when the services of such persons are sought to be terminated, refused to entertain the Writ Petition in W.P.No.3359 of 1995 and the same is disposed of on 29th 11-2002.

It is further stated that the learned counsel appearing for the respondents submits that the Apex Court in the case of Steel Authority of India Vs. National Waterfront Workers & Others, held that the writ petition is not maintainable and the High Court cannot entertain to adjudicate such disputes, which are to be decided by the Industrial Adjudicator but not under Article 226 of Constitution of India.

Whether the nature of the work carried on by the members of the petitioner union on contract basis is a permanent nature and such contract labour system is liable to be abolished by the appropriate Government under Section 10 of the Contract Labour (Regularisation, and Abolition) Act ,1970, are all the matters to be adjudicated by the Industrial Adjudicator and a High Court cannot exercise power under article 226 of the Constitution of India and decide such disputes.

It is stated that the earlier principle laid down in Steel Authority of India Vs. National Union Waterfront Workers was reiterated in the case of Ram Singh Vs. Union Territory, Chandigarh .

The learned counsel appearing for the petitioner union submits that petitioner union will raise an industrial dispute, therefore, status quo be maintained as on today.

I am not inclined to do so as the writ petitions themselves are not maintainable, question of granting any status quo does not arise.

Accordingly these two W.Ps are dismissed as not maintainable. There shall be no order as to costs.

V.Eswaraiah,J

27th August,2004.

Stp

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Sd/-

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Hindustan Machine Tools Limited., Banglore, rept By Chairman-cum-Managing Director
2 Hindustan Machine Tools Limited., (Machine Tools Division) Balanagar, Hyderbad-54
rep by General Manager
3 Asst. General Manager, HIndustan Machine Tools Limited., Balanagar, Hyderabad-54

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THE HON'BLE MR JUSTICE V.ESWARAIAH

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